

**Lexington Fayette Urban County Government
Affordable Housing Fund
Rental Production, Rehabilitation and Preservation
Program Requirements and Guidelines (Board Approved)**

Introduction

The Lexington-Fayette Urban County Government (LFUCG) created the Affordable Housing Governing Board (the Board) and the Affordable Housing Fund (the Fund) (Ordinance No. 101-2014 and 103-2014).

The purpose of the Fund is to leverage public and private investment to provide, produce and preserve safe, quality affordable housing. Housing is considered affordable when safe, quality housing is available and rent and utility costs are no more than 30 percent of gross household income.

The goal of the Office of Affordable Housing is that every household in Fayette County will have access to safe, quality and affordable housing.

Developments funded all or in part with affordable housing dollars must be permanent housing that serves households at or below 80 percent of the Fayette County area median income upon leasing or purchasing a unit. More specific targets may be established by the Board. These targets shall reflect awareness of the need to ensure that a portion of the fund's resources serve the housing needs of households at or below 50 percent of area median income and households at or below 30 percent of area median income. Permanent housing is defined as housing where there is no time limit on how long a household can reside in a unit.

In order to meet its mission and goal, LFUCG allocated \$3 million in fiscal year 2015, \$2 million in fiscal years 2016, 2017, 2018, 2019, 2020 and 2021. Another \$3 million was allocated in Fiscal 2022. LFUCG plans to allocate \$2 million annually to the Fund.

Loans and grants from the Fund are not intended to be the sole source of funding for a development, therefore developments must leverage other public and private dollars. The development's financing plan must demonstrate Fund dollars will assist in reducing development costs, and therefore reduce or eliminate debt that must be serviced from rental income. Energy efficient construction is required to ensure reduced utility costs. It is expected that reduced debt service and utility costs will correspond to lower rents charged to the tenants. Additionally, all developments receiving resources from the Fund will be deed restricted to ensure long term affordability.

Eligible applicants are non-profit and for profit developers as well as the Lexington Housing Authority.

Rental assistance dollars, while an eligible use of the Fund, are currently not available.

Funding to offset the costs of administering housing units in exchange for the owner leasing the units at a lower rate are currently not available.

Developments requesting funds shall have all of their funding committed prior to receiving a firm commitment of dollars from the Affordable Housing Fund. Applications proposing multi-year allocations for the preservation and/or new construction of units will not be considered for funding.

Eligible Uses of the Fund:

Eligible uses of the Fund are:

1. Construction, Acquisition, Bridge, Pre-Development and Permanent Loans.

- Please review the Fund's Loan Underwriting Policies and Procedures.
- Loans in excess of \$500,000 are required to be in participation with other financial institutions, unless otherwise approved by the Board.
- Copies of the application and other required documentation that are submitted to the financial institution must be submitted to the LFUCG Office of Affordable Housing.
- Loans will be amortizing with periodic payments due.
- A 1 percent fee is charged and due at loan closing.
- Interest rates and loan terms will be determined at time of commitment.

2. Forgivable and Due at Maturity Deferred loans.

- These products provide gap financing for rental developments.
- The proposed development must set aside 10 percent or more units for families at extremely low income (50 percent of area median income and below) and/or permanent supportive housing.
- A 1 percent fee is charged and due at closing, unless waived by the Board.
- Any forgiveness of Due at Maturity Deferred Loans must be approved by the Board.

3. Grants.

- Grant dollars can be used for gap financing to preserve and/or develop affordable rental units as well as paying LFUCG costs that are unable to be waived.
- The proposed development must set aside 20 percent or more units for families at extremely low income (50 percent of area median income and below) and/or permanent supportive housing.

Populations to be served

The following are funding priorities related to the resident populations intended to be served in developments utilizing resources from the Fund:

1. **Housing affordable to low-wage working families, families with children and individuals.**
 - Proposed developments should be located near transportation, local services and amenities.
 - Applications for mixed income developments as well as developments that combine housing and commercial space are eligible for funding.
 - Costs associated with market-rate housing and commercial space are not eligible for LFUCG Fund dollars.
 - Common areas and program office space may be eligible for LFUCG Fund dollars if it is determined they will serve low wage earners.

2. **Housing for seniors, single parents, special needs populations and people with disabilities (Permanent Supportive Housing)** Developments for these individuals and households that propose service components must demonstrate a relationship with a service provider and how those services will be funded. Populations to be served are:
 - A. Elderly
 - B. Homeless
 - C. Victims of Domestic Violence
 - D. Physically disabled
 - E. Youth aging out of Foster Care
 - F. Persons with acquired traumatic brain injury
 - G. Veterans
 - H. Persons with severe mental illness
 - I. Persons addicted to substances
 - J. Single parents

As mentioned above, Fund dollars are available to provide housing units for households at or below 80 percent of area median income upon leasing or purchasing a unit. Area median incomes for Fayette County in 2021 are as follows:

Lexington- Fayette County Area Median Incomes

| | 100% of Area | 80% of Area | 60% of Area | 50% of Area | 30% of Area |
|-----------|--------------|-------------|-------------|-------------|-------------|
| Household | Median | Median | Median | Median | Median |
| Size | Income | Income | Income | Income | Income |
| 1 | \$52,900 | \$42,300 | \$31,740 | \$26,450 | \$15,900 |
| 2 | \$60,400 | \$48,350 | \$36,240 | \$30,200 | \$18,150 |
| 3 | \$68,000 | \$54,400 | \$40,800 | \$34,000 | \$20,400 |
| 4 | \$75,500 | \$60,400 | \$45,300 | \$37,750 | \$22,650 |

Therefore, for populations served with the Fund's dollars, the following monthly costs for housing related expenses (rents plus utilities) are considered affordable:

Maximum Affordable Monthly Rent plus Utilities in Fayette County

| <i>Household Size</i> | <i>80% of Area Median Income</i> | <i>60% of Area Median Income</i> | <i>50% of Area Median Income</i> | <i>30% of Area Median Income</i> |
|---------------------------|--------------------------------------|--------------------------------------|--------------------------------------|--------------------------------------|
| 1 | \$1,058 | \$794 | \$661 | \$398 |
| 2 | \$1,209 | \$906 | \$755 | \$454 |
| 3 | \$1,360 | \$1,020 | \$850 | \$510 |
| 4 | \$1,510 | \$1,133 | \$944 | \$566 |

Rents:

Unless otherwise approved by the Affordable Housing Board, monthly housing costs (rent plus utilities) for households residing in units funded with Affordable Housing Fund dollars shall not exceed the maximum affordable housing amount shown for household size and incomes being served. For example, if a household of 3 with income at or below 60% of area median income is leasing a unit, their rent plus utilities shall not exceed \$1,020. The area median incomes and maximum affordable housing costs are updated annually.

Developments funded with housing credits (Section 42 of the Internal Revenue Code) will be subject to the rent requirements for housing credit developments.

Student Housing:

The production or preservation of student housing is not an eligible use of affordable housing dollars. However, students who meet one or more of the following criteria are eligible to live in units funded all or in part by the Fund:

1. A student receiving assistance under Title IV of the Social Security Act.
2. A student who was previously under the care and placement responsibility of the State agency responsible for administering a plan under part B or part E of title IV of the Social Security Act.
3. A student enrolled in a job training program receiving assistance under the Job Training Partnership Act or under similar Federal, State, or local laws.
4. A student who is a single parent with children and the parent does not qualify as a dependent of another individual.
5. A student or students who are married filing a joint income tax return.

Application process:

1. **Applicant contacts the office of affordable housing**
To discuss the development concept and receive any necessary technical assistance.
2. **Application is submitted by the due date.**
A copy of applications to other agencies such as Kentucky Housing Corporation (KHC), The Federal Home Loan Bank, LFUCG HOME, etc. is required to be submitted to the Office of Affordable Housing and will substitute for the LFUCG application. However, the LFUCG Office of Affordable Housing may ask for additional data as the review process proceeds. All applications must contain a statement of sources and uses and a 15 year pro forma that is consistent with the information presented to other funders.
3. **Application is reviewed by the Office of Affordable Housing and Board.**
Approved developments will receive a contingent commitment letter from the Office of Affordable Housing.
4. **Technical submission process begins.**
Once an application is initially approved a technical submission checklist outlining all required submission items will be sent to the applicant. The LFUCG Office of Affordable Housing requires copies of all technical submission items sent to other funders. These items must be submitted and approved prior to the development receiving a firm commitment.
5. **Final staff and Board review of proposed development.**
Approved developments will receive a firm commitment letter from the Office of Affordable Housing.

Prior to application, applicants are required to prepare, document and begin implementing a community relations plan, including neighborhood notification activities. The community relations plan is needed whether the application is for funding for new construction or renovation of an existing building, regardless of whether there is a change in ownership.

A successful notification effort leads to open, ongoing communication between developers and neighbors. This requires cooperation by developers, the city, and neighborhood residents. A positive, open relationship between housing developers and neighbors can prevent misunderstandings and facilitate prompt resolution of misunderstandings and issues.

Funding of affordable housing will not be refused solely on the basis of concerns expressed by neighbors. The LFUCG Fund supports and is committed to promoting diversity in Fayette County neighborhoods. Consistent with local, State and Federal law, housing may not be excluded from a neighborhood based on any of the following characteristics of the persons who will live there: age, ancestry, color, creed, disability, gender identity, marital status, honorably discharged veteran or military status, national origin, family status, victims of domestic violence, political ideology, race, religion, sex, sexual orientation, possession or use of a Section 8 voucher, or use of a service animal by a disabled person.

LFUCG supports affordable housing projects that will preserve and enhance the strengths of neighborhoods. Housing developers and neighbors should keep the Office of Affordable Housing informed of any issues or concerns throughout the community notification process and operation of the development.

Applications are to be submitted to:

Richard L. McQuady
Office of Affordable Housing
Lexington Fayette Urban County Government
200 East Main Street
Lexington, KY. 40507

Pre-Construction Conference and loan closing:

A pre-construction conference will be held for all developments funded in whole or in part by the Fund. The conference will include Fund staff, and staff from LFUCG representing legal, finance and inspections. The purpose of the meeting is to outline the basic responsibilities and duties of the parties throughout the construction process and the affordability period. During this meeting, all grant and loan documents will be reviewed and signed and the funds disbursement process will be discussed.

Deed Restrictions:

Any development receiving Fund dollars shall include deed restrictions to ensure projects are maintained as affordable housing for the affordability period. Affordability periods, generally between five (5) and fifteen (15) years, will be determined by the Board.

Sale of Property Prior to Expiration of Deed Restriction:

Upon the sale of a property which received funding from the Affordable Housing Fund, the Deed Restrictions shall remain in place until the expiration date. The new owners will be subject to the same restrictions and conditions as the original owners.

Transactions that result in a new owner assuming the terms of a repayable or forgivable loan must be approved by the Board prior to closing.

The Office of Affordable Housing will assess fees related to the preparation of documents associated with the sale of the property and the assumption of loan terms by the new owner(s).

Disbursement of Funds:

Construction draws will be processed on a reimbursable basis. The project sponsor will submit a draw request form to the Office of Affordable Housing. After inspection, the draw will be approved and funds disbursed. As mentioned above, this process will be discussed during the loan closing and pre-construction conference.

Evaluation Criteria:

Applications will be evaluated by the staff and Board of the Office of Affordable Housing based on the following criteria:

- 1. Capacity of the Development Team.**

A review of the team's experience with affordable housing developments as well as their financial capacity. This review includes a capacity evaluation of the developer, architect, Contractor, Counsel, Equity Provider and Management Company.

- 2. Need/Market for the development.**

A market study or market analysis documenting the need and market for the development is required. The review will assess the impact on other rental properties in the general area of the proposed development as well as a review of income levels to be served and the rents to be charged to the tenants.

- 3. Project Design.**

Reviews related to unit size, effect on the neighborhood, type of construction, compliance with applicable laws, amenities, tenant relocation plan and energy enhancements to reduce utility costs.

- 4. Financial Feasibility.**

A review of the statement of Sources and Uses of funds as well as a 15 year pro forma. These statements must be consistent with those presented to other funders. A post rehab or new construction appraisal may be required.

- 5. Readiness to Proceed.**

The staff and Board will review a development timeline as well as status of zoning, property acquisition, other resources, etc.

Financial requirements:

Liens and Appraisals:

Loans funded with Fund dollars will be in first lien position unless otherwise approved by the Board. The maximum combined loan to value ratio may not exceed 100 percent for all permanent loans associated with the project. The project's investment value will be determined by an appraisal.

The staff and Board of the Fund reserve the right to request an appraisal on any project utilizing Funds. Appraisals must be received during the technical submission stage. Applicants are responsible for all costs associated with the completed appraisal. Appraisals ordered for another lender may be acceptable. It is the policy of the Board for applicants to utilize an appraisal firm listed on Kentucky Housing Corporation's approved list and the appraisal must meet the standards outlined in Kentucky Housing Corporation's appraisal requirements. These approved appraisers and requirements are available on Kentucky Housing Corporation's web site at www.kyhousing.org, under development; multifamily; underwriting resources.

Debt Coverage Ratio:

Developments are required to have a minimum debt coverage ratio of 1.2 in year one and remain positive throughout the affordability period. Any development with a debt coverage ratio that is approaching the break-even point, on or before the end of the affordability period, must provide an explanation and document that sufficient funds will be available to support and maintain the development throughout the affordability period.

Reserve for Replacement:

Unless waived or amended by the Affordable Housing Fund Board, new construction developments shall establish a minimum reserve for replacement deposit of \$400 per unit per year for new construction developments. The minimum amount for rehabilitation developments will be determined by the physical needs assessment, but in no case be less than \$400 per unit per year.

Developer Fee:

Per the ordinance establishing the Fund, developer fees paid with Lexington-Fayette County Affordable Housing Fund dollars may not exceed 15 percent of total development costs.

Insurance Requirements:

For all properties assisted with Affordable Housing Funds, the borrower or property owner shall maintain all risk, fire and extended coverage, in form and with companies acceptable to LFUCG, for each unit of the project and any improvements to be constructed thereon in an amount of not less than Affordable Housing Funds made available to the borrower. Each policy must include appropriate loss payable clauses in favor of LFUCG.

Construction Contingency:

The construction contingency may not exceed 15 percent of total construction hard costs. When calculating contingency, acquisition of the property should not be included as hard costs. If no contingency is being requested, the applicant must explain the rationale as to why none is required. Furthermore, if no contingency is requested and change orders occur during construction, the applicant is responsible for all such costs. For new construction projects, contingency should always be less than 10 percent (in most cases generally less than 5 percent). For rehabilitation projects, the contingency may be as much as 15% but should generally be minimized by in-depth studies and evaluations that should be conducted as part of the developer's due diligence in preparing the application.

The construction contingency is set aside for unforeseen cost overruns. To draw contingency funds, a change order must be prepared and approved by both the inspector and plan reviewer at the time the change is deemed necessary. If contingency funds are not used, those funds will be recaptured and the necessary loan documents will be modified to reflect the difference in the amount funded. Soft cost contingencies are not allowed.

Annual Operating Expenses:

The staff and Board of the Fund will review proposed operating expenses for reasonableness. Applicants may be required to provide additional information related to projected annual operating costs.

Management fees generally should be comparable to market fees and should not exceed 8.5 percent of effective gross income. Smaller projects and/or special needs projects, which may require a higher fee, must justify a higher percentage.

Cost Containment:

While maintaining aesthetic and livable standards, the staff and Board will thoroughly review costs associated with construction to ensure reasonableness. The Fund will follow the cost containment guidelines utilized by Kentucky Housing Corporation. These can be found at www.kyhousing.org.

Costs associated with commercial space or a Community Service Facility, as defined in Section 42 of the Internal Revenue Code, will not be considered in the cost containment calculation.

Projects that contain commercial space must itemize the associated commercial space costs on a separate statement. No Fund money can be used to fund commercial space.

Any project-related fees or soft costs associated with a Community Service Facility or commercial space must be allocated on a pro-rata basis, or the actual amount of the soft cost, if it is specific to the space.

Operating Deficit Reserve Account (ODR):

The Board and staff may require an operating deficit reserve be established. The purpose of the ODR is to ensure that adequate funds are on hand should operating costs (e.g., utilities, maintenance costs, debt service obligations, etc.) exceed the project's ability to pay them with other funds. In addition to being a safeguard during the initial lease-up phase, the ODR is vital to ensuring the long-term financial stability of the project by increasing the project's ability to absorb or respond to temporary changes in circumstances, such as the unanticipated event of significant unbudgeted increases in operating expenses and/or losses in operating revenues.

If required, the minimum operating deficit reserve is to be calculated as follows:

Six months of debt service payments
+ Six months of projected operating expenses
= Minimum Operating Deficit Reserve Required

Construction Requirements:

All buildings must comply with all state and local building codes including accessibility standards, applicable federal accessibility laws (including Fair Housing Accessibility Guidelines) and the Americans with Disabilities Act Accessibility Guidelines.

All developments must comply with requirements for design-based security.

All developments must comply with the Uniform Residential Landlord Tenant Act.

All projects must implement the Universal and Minimum Design Standards of Kentucky Housing Corporation (KHC) to ensure energy-efficient design and construction practices are utilized.

Rehabilitation projects are encouraged to incorporate KHC's Universal Design standards when it is feasible. These standards are available on KHC's web site www.kyhousing.org.

All rehabilitation projects consisting of 12 or more units will be required to submit a physical capital needs assessment.

Any affordable housing development funded in whole, or in part, by the Fund shall be inspected at least once per calendar year to ensure compliance with affordable housing standards adopted by the Board. These may include, but are not limited to; building and property maintenance codes applicable in the Commonwealth of Kentucky or within Lexington-Fayette County, requirements for design-based security such as Secured by Design, and other standards as set forth by the Board or the Urban County Government.

Compliance:

Any affordable housing development funded in whole or in part by the Fund shall be subject to compliance reviews to ensure adherence to tenant income requirements, rent restrictions, pledged amenities and all commitments made in application for funding.

Any development found to have inspection and/or compliance issues that are not timely addressed will be subject to recapture of funds and other penalties as determined by the Board.

Any development found to not be in compliance with applicable laws and/or these guidelines may have their funds recaptured and be subject to other penalties as determined by the Board.

Financial and property reports are required to be submitted on an annual basis to the Office of Affordable Housing. The content of these reports will be determined by the Board.

Where applicable, developments must participate in the KY-HMIS and associated common assessment process.

All compliance requirements will be discussed with the sponsor during the pre-construction and loan closing meeting.

Other requirements and guidelines:

Physical/Capital Needs Assessment (PCNA):

All rehabilitation projects of 12 or more units and/or total Affordable Housing funding of \$200,000 or more are required to submit a PCNA as an attachment to the application, unless waived by the Board. The applicant is responsible for the cost of PCNA. The PCNA will include a complete and thorough inspection of all structural components, appliances, mechanical and electrical systems to determine life expectancy, needed repairs and/or replacement. The Office of Affordable Housing may require an assessment of the plumbing as part of the PCNA.

The PCNA is to be conducted by an inspector who is an independent third party and is a licensed architect and/or engineer qualified to complete the assessment. The inspector may consult with structural, mechanical or electrical engineers to provide expert opinions as to the existing condition of a particular item.

PCNA/Capital Needs Report Requirements:

1. The report shall describe, in detail, all rehabilitation work required and an estimate of the associated costs.
2. A minimum of 25% of all units and at least one of each type must be inspected prior to the preparation of the report.
3. All reports should indicate the items and areas in need of immediate repair. A separate analysis should be completed on all components that will need repair or replacement within the next 5 years.
4. Provide a report on all existing conditions or items in violation of applicable building codes, federal and/or state accessibility standards, and/or local ordinances. Corrective measures required to bring all items into compliance must be thoroughly detailed.
5. Any visible evidence of hazardous substances, including but not limited to asbestos containing material, lead-based paint, petroleum bulk storage, polychlorinated biphenyls, and chlorofluorocarbons must be noted.
6. Deferred maintenance not performed on a normal operating basis, including estimates of corrective costs.
7. Any repairs or improvements needed to nonresidential buildings such as community buildings, management offices, garages, etc. and estimates of costs.

Relocation:

Development of affordable rental housing and acquisition of property for such development must minimize displacement of households. Any temporary relocation or permanent displacement of households must comply with all applicable provisions of law and relocation plan is part of the project design review of all applications.

Affirmative Marketing and Tenant Selection Plans:

Funded developments are required to affirmatively market vacant units using marketing methods designed to reach persons from all segments of the community, including minorities, persons of color and persons with disabilities.

In addition, sponsors of rental housing projects are strongly encouraged to inform providers of emergency shelters and transitional housing about their projects and to promote access to households ready to move into permanent housing. Sponsors will be required to maintain records

of their affirmative marketing efforts and to report annually to the Office of Affordable Housing on those efforts.

Owners of rental properties funded in whole or in part with affordable housing dollars are required to accept tenants with rental vouchers, and their tenant selection plans should ensure acceptance of households that would qualify for a voucher. Prior to receiving funding the sponsor's tenant selection plan will be reviewed to ensure compliance with Fund requirements.

Women and Minority Business Enterprises:

Sponsors and their general contractors shall be encouraged to take actions which will increase opportunities for women and minority business enterprises (WMBE). The Office of Affordable Housing encourages efforts to increase WMBE participation including internships and participation in apprenticeship and other training opportunities.